

a hearing officer appointed by the Administrator of CMS and provide the accreditation organization the opportunity to present, in writing and in person, evidence or documentation to refute the determination to deny approval, or to withdraw or not renew deeming authority.

(6) CMS provides written notice of the time and place of the informal hearing at least 10 calendar days before the scheduled date.

(7) The informal reconsideration hearing is open to CMS and the organization requesting the reconsideration, including authorized representatives; technical advisors (individuals with knowledge of the facts of the case or presenting interpretation of the facts); and legal counsel.

(i) The hearing is conducted by the hearing officer who receives testimony and documents related to the proposed action.

(ii) Testimony and other evidence may be accepted by the hearing officer even though it is inadmissible under the rules of court procedures.

(iii) The hearing officer does not have the authority to compel by subpoena the production of witnesses, papers, or other evidence.

(8) Within 45 calendar days of the close of the hearing, the hearing officer presents the findings and recommendations to the accreditation organization that requested the reconsideration.

(9) The written report of the hearing officer includes separate numbered findings of fact and the legal conclusions of the hearing officer. The hearing officer's decision is final.

[71 FR 48409, Aug. 18, 2006]

Subpart E—To Whom Payment is Made in Special Situations

§ 424.60 Scope.

(a) This subpart sets forth provisions applicable to payment after the beneficiary's death and payment to entities that provide coverage complementary to Medicare Part B.

(b) The provisions applicable to payment for services excluded as custodial care or services not reasonable and

necessary are set forth in §§ 405.332 through 405.336 of this chapter.

[53 FR 6634, Mar. 2, 1988, as amended at 53 FR 28388, July 28, 1988]

§ 424.62 Payment after beneficiary's death: Bill has been paid.

(a) *Scope.* This section specifies the persons whom Medicare pays, and the conditions for payments, when the beneficiary has died and the bill has been paid.

(b) *Situation.* (1) The beneficiary has received covered services for which he could receive direct payment under § 424.53.

(2) The beneficiary died without receiving Medicare payment.

(3) The bill has been paid.

(c) *Persons whom Medicare pays.* In the situation described in paragraph (b) of this section, Medicare pays the following persons in the specified circumstances:

(1) The person or persons who, without a legal obligation to do so, paid for the services with their own funds, before or after the beneficiary's death.

(2) The legal representative of the beneficiary's estate if the services were paid for by the beneficiary before he or she died, or with funds from the estate.

(3) If the deceased beneficiary or his or her estate paid for the services and no legal representative of the estate has been appointed, the survivors, in the following order of priority:

(i) The person found by SSA to be the surviving spouse, if he or she was either living in the same household with the deceased at the time of death, or was, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased beneficiary;

(ii) The child or children, who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one child, in equal parts to each child);

(iii) The parent or parents, who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased